



DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Privacy Act of 1974, as Amended; System of Records Notice

AGENCY: Financial Crimes Enforcement Network (FinCEN), Treasury.

ACTION: Notice of alterations of three Privacy Act systems of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Financial Crimes Enforcement Network (“FinCEN”), Department of the Treasury (“Treasury”), gives notice of proposed alterations to three existing systems of records entitled “Treasury/FinCEN .001 - FinCEN Investigations and Examinations System (the “Investigations and Examinations System”),” “Treasury/FinCEN .002 - Suspicious Activity Report System (the “SAR System”),” and “Treasury/FinCEN .003 - Bank Secrecy Act Reports System (the “BSA System”).” The systems of records were last published in their entirety on July 21, 2008, at 73 FR 42406, 73 FR 42407, and 73 FR 42409, respectively.

DATES: Comments must be received no later than [Insert Date 30 Days After Publication In The Federal Register]. This altered system of records will be effective [Insert Date 35 Days After Publication In The Federal Register] unless the Department receives comments which would result in a contrary determination.

ADDRESSES: Written comments should be submitted to: Office of Chief Counsel, Financial Crimes Enforcement Network, Department of the Treasury, P.O. Box 39, Vienna, VA 22183-0039, Attention: Revisions to PA System of Records-Comments. Comments also may be submitted by electronic mail to the following Internet address: regcomments@fincen.gov, with the above caption in the body of the text.

Inspection of comments: Comments are available on www.regulations.gov and are posted when received. Comments may be inspected at FinCEN between 10 a.m. and 4 p.m., in the FinCEN Reading Room, Vienna, VA. Persons wishing to inspect the comments submitted must request an appointment with the Disclosure Officer by telephoning (703) 905-5034 (not a toll-free call).

FOR FURTHER INFORMATION CONTACT: Office of Chief Counsel, FinCEN, at (703) 905-3590 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

FinCEN has conducted a review of its Privacy Act systems of records for compliance with the Privacy Act (5 U.S.C. 552a) and with Appendix 1 to OMB Circular A-130, “Federal Agency Responsibilities for Maintaining Records About Individuals,” dated November 30, 2000, and is proposing to alter three of its current systems of records. FinCEN has a legal requirement to publish such notices.

The systems of records contain information collected under the statutory authority of the Bank Secrecy Act, Title I and II of Public Law 91-508, as amended, and codified at 12 U.S.C. 1829b, 12 U.S.C. 1951-1959, and 31 U.S.C. 5311-5314, 5316-5332, or any other authority exercised by FinCEN to compel the reporting of records, such as section 104(e) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, Public Law 111-195. These systems of records may also include information or records that contribute to effective law enforcement and regulation of financial institutions and non-financial trades or businesses, including, but not limited to, subject files on individuals, corporations, and other legal entities. The Bank Secrecy Act authorizes the Secretary of the Treasury, *inter alia*, to require financial institutions and individuals to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, or in the conduct of intelligence or counter-intelligence activities to protect against international terrorism, and to implement counter-money laundering programs and compliance procedures. The regulations implementing Title II of the Bank Secrecy Act appear at 31 CFR chapter X. The Secretary delegated his authority to administer the Bank Secrecy Act to the Director of FinCEN.

Suspicious transaction reporting is required by regulations issued by FinCEN and the supervisory agencies that examine and regulate the safety and soundness of financial institutions, namely the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the National Credit Union Administration (collectively, the "Federal Supervisory Agencies").¹ The requirements of FinCEN and the Federal Supervisory Agencies create an integrated system for reporting suspicious activity and known or suspected crimes. Under these requirements, financial institutions file a single uniform Suspicious Activity Report (a "SAR") with FinCEN. Prior to the development of the integrated SAR filing system, a financial institution reporting a known or suspected violation of law was required to file multiple copies of criminal referral forms with its Federal Supervisory Agency and Federal law enforcement agencies. Each Federal Supervisory Agency had promulgated a different form. Under the current system, a financial institution meets its obligation to report a known or suspected violation of law by filing one copy of a SAR with FinCEN.

In the course of its review, FinCEN identified a number of non-substantive, clarifying revisions to the SAR System's system of records notice as part of its negotiations on the improvements being made to the data base storing the information contained in FinCEN's systems of records (the "FinCEN Data Base"), and access and use issues with the Federal Supervisory Agencies. The Federal Supervisory Agencies have indicated broad acceptance of this package of revisions, and have committed to consider harmonizing their own systems of records notices referencing SARs with FinCEN's SAR System notice language, as revised in this notice. To the extent different systems of records notices attempt to communicate the same point, they should use broadly identical language. As a result, a number of the revisions to the SAR System notice are appropriate, and have been adopted in the Investigations and Examinations System notice and the BSA Reports System notice. Additional clarifying revisions have been made to the Investigations and Examinations System notice and the BSA Reports System notice with respect to language that has no direct parallel in the FinCEN SAR System notice.

¹ For purposes of this notice, the term "Financial Supervisory Agencies" also includes the now defunct Office of Thrift Supervision ("OTS") to the extent that the SAR System includes information from reports filed pursuant to rules issued by the OTS.

Consequently, these system notices contain a number of proposed revisions that modify the 2008 FinCEN Privacy Act systems of records notices. Most of these revisions are non-substantive clarifications. FinCEN is legally permitted to make all of these non-substantive revisions set forth in the systems of records notices published below. The revisions to the SAR System notice, as a whole, have been discussed with the Federal Supervisory Agencies and would form a generally acceptable base from which to work towards the goal of a single, uniform federal government standard for public notice of the use of SARs. The non-substantive revisions to the Investigations and Examinations System notice and the BSA Reports System notice generally make those notices more consistent with the SAR System notice, thus producing a clearer and a more accurate reflection of FinCEN's actual practices.

One new routine use is being proposed for the FinCEN .001 - FinCEN Investigations and Examinations System notice as follows:

- (10) Disclose information or records to any person with whom FinCEN, Enterprise Computing Center Detroit (ECCD), Enterprise Computing Center Martinsburg (ECCM),² or a FinCEN Investigations and Examinations System User³ contracts to provide consulting, data processing, clerical, secretarial, or other services relating to the official programs and operations of FinCEN, ECCD, ECCM, or the FinCEN Investigations and Examinations System User.

This routine use is compatible with the purpose for which the records are collected because such disclosures will enable FinCEN to better administer the information it maintains and may facilitate the use of information in accordance with applicable laws and regulations. FinCEN believes that this routine use is implicit in the other routine uses for this notice, but nevertheless is seeking to explicitly add it for the sake of clarity. Other routine uses for this notice would be revised in ways that do not increase the availability of records or amend the manner in which the records may be used.

There are no new routine uses being proposed for the FinCEN .002 - SAR System notice. The revised routine uses that are being proposed for this notice do not increase the availability of records in that system or amend the manner in which the records may be used. The proposed SAR System notice would delete the routine use relating to the disclosure of SARs to bar associations and other professional organizations, to better reflect FinCEN's actual practice and to conform the SAR System notice with FinCEN's other systems notices.

The new or revised routine uses for the FinCEN .003 - BSA Report System notice are as follows:

- (1) Provide information or records, electronically or manually, to a BSA Report System User if relevant to the enforcement, regulatory, and supervisory programs and operations of that user;
- (2) Provide a BSA Report System User, and if applicable the unit within an Executive Department to which the BSA Report System User reports, with reports that indicate the number, amount, individual identity of participants, and other details concerning events or activities that have been the subject of a BSA Report;

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² ECCD" and "ECCM" are the IRS data processing sites that provide data processing services to FinCEN, as identified under the header "System Location" in each system of records notice.

³ A FinCEN Investigations and Examinations System User is an agency or organization that has been granted access to the information in this system.

(5) Provide information or records, when appropriate, to an international authority or foreign government in accordance with law and bilateral or multilateral international agreements;

* * * * *

(7) Disclose the existence, but not necessarily the content, of information or records pertaining to an investigation by a BSA Report System User, on behalf of and with the approval of that BSA Report System User, to another BSA Report System User, when FinCEN determines that such disclosure furthers the coordinated analysis and tracking of information among BSA Report System Users;

* * * * *

(11) Provide information or records to the United States Intelligence Community, within the meaning of Executive Order 12333 (December 4, 1981) as amended, to further those agencies' efforts with respect to national security consistent with applicable law; and

* * * * *

(13) Disclose information or records to any person with whom FinCEN, ECCD, ECCM, or a BSA Report System User contracts to provide consulting, data processing, clerical, secretarial, or other services relating to the official programs and operations of FinCEN, ECCD, ECCM, or the BSA Report System User.

These routine uses are compatible with the purpose for which the records are collected because such disclosures will enable FinCEN to better administer the information it maintains and may facilitate the use of the information in accordance with applicable laws and regulations. FinCEN believes that these routine uses are implicit in the other routine uses for this notice, but nevertheless is seeking to explicitly add them for the sake of clarity. Other routine uses for this notice would be revised in ways that do not increase the availability of records or amend the manner in which the records may be used.

Information in the systems of records may be retrieved by personal identifier. The Privacy Act of 1974 requires the Treasury to give general notice, and opportunity to comment, to the public when making substantive changes to these Systems. Although revisions to these systems of records notices are non-substantive, they are numerous. As a result, FinCEN is providing notice and public comment opportunity. The notices were last published in their entirety on July 21, 2008, beginning at 73 FR 42405.

For the reasons set forth above, FinCEN proposes to alter the FinCEN Investigations and Examinations System, the SAR System, and the BSA System, as follows:

Treasury/FinCEN.001

SYSTEM NAME:

FinCEN Investigations and Examinations System—Treasury/FinCEN.

SYSTEM LOCATION:

The Internal Revenue Service Enterprise Computing Center Detroit (ECCD), 985 Michigan Avenue, Detroit, Michigan 48226-1129; Internal Revenue Service Enterprise Computing Center Martinsburg (ECCM), 295 Murall Drive, Kearneysville, West Virginia, 25436; Bureau of the Public Debt, P.O. Box 7015, Parkersburg, West Virginia, 26106-7015; and Financial Crimes Enforcement Network (FinCEN), P.O. Box 39, Vienna, Virginia 22183-0039.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individuals who relate in any manner to official FinCEN efforts in support of the enforcement of the Bank Secrecy Act and money-laundering and other financial crimes. Such individuals may include, but are not limited to, subjects of investigations and prosecutions;

suspects in investigations; victims of such crimes; witnesses in such investigations and prosecutions; and close relatives and associates of any of these individuals who may be relevant to an investigation; (2) current and former FinCEN personnel whom FinCEN considers relevant to an investigation or inquiry; and (3) individuals who are the subject of unsolicited information possibly relevant to violations of law or regulations, who offer unsolicited information relating to such violations, who request assistance from FinCEN, and who make inquiries of FinCEN.

CATEGORIES OF RECORDS IN THE SYSTEM:

Every possible type of information that contributes to effective law enforcement and regulation of financial institutions may be maintained in this system of records, including, but not limited to, subject files on individuals, corporations, and other legal entities; information provided pursuant to the Bank Secrecy Act or any other authority exercised by FinCEN to compel the reporting of records; information gathered pursuant to search warrants; statements of witnesses; information relating to past queries of the FinCEN Data Base; criminal referral information; complaint information; identifying information regarding witnesses, relatives, and associates; investigative reports; and intelligence reports. Records include queries and the results of queries made by FinCEN customers (see discussions of SAR System Users and BSA Report System Users in the system of records notices for Suspicious Activity Reporting System—Treasury/FinCEN.002 and Bank Secrecy Act Reports System—Treasury/FinCEN.003, respectively), and by FinCEN employees on behalf of investigatory agencies, financial intelligence units, other FinCEN customers, and FinCEN itself.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 31 U.S.C. 5311-5314, 5316-5332; 31 U.S.C. 310; 31 CFR chapter X; Pub. L. 111-195, 124 Stat. 1312; Treasury Department Order 180-01 (September 26, 2002).

PURPOSE(S):

The purpose of this system of records is to support FinCEN's efforts to provide a government-wide, multi-source intelligence and analytical network to support the detection, investigation, and prosecution of domestic and international money laundering and other financial crimes, and other domestic and international criminal, tax, and regulatory investigations and proceedings, including examinations, and to support the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism. A FinCEN Investigations and Examinations System User is an agency or organization that has been granted access to the information in this system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records in this system may be used to:

- (1) Provide responses to queries from Federal, State, territorial and local law enforcement and regulatory agencies, both foreign and domestic, regarding Bank Secrecy Act and other financial crime enforcement;
- (2) Furnish information to other Federal, State, local, territorial, and foreign law enforcement and regulatory agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license, where FinCEN becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation;
- (3) Furnish information to the Department of Defense, to support its role in the detection and monitoring of aerial and maritime transit of illegal drugs into the United States and any other role in support of law enforcement that the law may mandate;

- (4) Respond to queries from INTERPOL in accordance with agreed coordination procedures between FinCEN and INTERPOL;
- (5) Furnish information to individuals and organizations, in the course of enforcement efforts, to the extent necessary to elicit information pertinent to financial law enforcement;
- (6) Furnish information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with civil or criminal law proceedings;
- (7) Furnish information to the news media in accordance with the guidelines contained in 28 CFR 50.2, which relate to civil and criminal proceedings;
- (8) Provide information or records to the United States Intelligence Community, within the meaning of Executive Order 12333 (December 4, 1981) as amended, to further those agencies' efforts with respect to national security consistent with applicable law;
- (9) Disclose information or records to any person with whom FinCEN, ECCD, ECCM, or a FinCEN Investigations and Examinations System User contracts to provide consulting, data processing, clerical, secretarial functions, and other services relating to the official programs and operations of FinCEN, ECCD, ECCM, or the FinCEN Investigations and Examinations System User; and
- (10) To appropriate agencies, entities, and persons when (a) FinCEN suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) FinCEN has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by FinCEN or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with FinCEN's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media and other electronic format and on hard paper copy.

RETRIEVABILITY:

By name, address, or other unique identifier.

SAFEGUARDS:

Electronic records are password protected. Records are maintained in buildings subject to 24-hour security. Access controls will not be less than those provided by Treasury security requirements. Access to individuals is granted based on roles and responsibilities.

RETENTION AND DISPOSAL:

FinCEN personnel review records in this system each time a record is retrieved and on a periodic basis to see whether it should be retained or modified. Records in this system are updated periodically to reflect disposition of records in accordance with applicable law and record retention schedules.

SYSTEM MANAGER(S) AND ADDRESSES:

Deputy Director, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183-0039.

NOTIFICATION PROCEDURE:

This system is exempt from notification requirements, record access requirements, and requirements that an individual be permitted to contest its contents, pursuant to the provisions of 5 U.S.C. 552a(j)(2), (k)(1), and (k)(2).

RECORD ACCESS PROCEDURES:

See “Notification procedure” above.

CONTESTING RECORD PROCEDURES:

See “Notification procedure” above.

RECORD SOURCE CATEGORIES:

See “Categories of individuals covered by the system” above. Pursuant to the provisions of 5 U.S.C. 552a(j)(2), (k)(1), and (k)(2), this system is exempt from the requirement that the record source categories be disclosed.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H), and (I), (e)(5), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2), (k)(1), and (k)(2). See 31 CFR 1.36.

Treasury/FinCEN.002

SYSTEM NAME:

Suspicious Activity Report System (the “SAR System”)—Treasury/FinCEN.

SYSTEM LOCATION:

The Internal Revenue Service Enterprise Computing Center Detroit (ECCD), 985 Michigan Avenue, Detroit, Michigan 48226–1129; Internal Revenue Service Enterprise Computing Center Martinsburg (ECCM), 295 Murall Drive, Kearneysville, West Virginia, 25436; Bureau of the Public Debt, P.O. Box 7015, Parkersburg, West Virginia, 26106–7015; and Financial Crimes Enforcement Network (FinCEN), P.O. Box 39, Vienna, Virginia 22183–0039.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The SAR System contains information from forms including, but not limited to: Form TD F 90–22.47 (Suspicious Activity Report by Depository Institutions)—to be replaced by FinCEN 111; FinCEN 101 (Suspicious Activity Report by the Securities and Futures Industries); FinCEN 102 (Suspicious Activity Report by Casinos and Card Clubs)—formerly TD F 90–22.49; FinCEN 109 (Suspicious Activity Report by Money Services Business)—formerly TD F 90–22.56. The SAR System also will contain information from Form 111 (Bank Secrecy Act (BSA) Suspicious Activity Report), after that unified form for reporting suspicious activity is made effective.

Information on these forms concerns:

(1) Individuals who or entities that are known or suspected perpetrators of a known or suspected criminal violation, or pattern of criminal violations, committed or attempted against a financial institution, or participants in a transaction or transactions conducted through the financial institution, that have been reported by the financial institution, either voluntarily, or because such a report is required under the rules of FinCEN and/or the rules of one or more of the Federal Supervisory Agencies.

(2) Individuals who or entities that are participants in transactions, conducted or attempted by, at, or through a financial institution, that have been reported because the institution knows, suspects, or has reason to suspect that: (a) the transaction involves funds derived from illegal activities or is intended or conducted to hide or disguise funds or assets derived from illegal activities as part of a plan to violate or evade any law or regulation or to avoid any transaction reporting requirement under Federal law; (b) the transaction is designed to evade any regulations promulgated under Pub. L. 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–

1959, and 31 U.S.C. 5311–5314, 5316-5332 (the BSA); (c) the transaction has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the financial institution knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction; or (d) the transaction involves use of the financial institution to facilitate criminal activity;

(3) Individuals who are directors, officers, employees, agents, or otherwise affiliated with a financial institution;

(4) Individuals who or entities that are actual or potential victims of a criminal violation or series of violations;

(5) Individuals who are named as possible witnesses in connection with matters arising from any such report;

(6) Individuals or entities named as preparers of any such report;

(7) Individuals or entities named as persons to be contacted for assistance by government agencies in connection with any such report;

(8) Individuals or entities who have or might have information about individuals or criminal violations described above;

(9) Individuals or entities involved in evaluating or investigating any matters arising from any such report;

(10) Individuals, entities or organizations suspected of engaging in terrorist and other criminal activities and any person who may be affiliated with such individuals, entities or organizations;

(11) Individuals or entities named by financial institutions as persons to be contacted for further assistance by government agencies in connection with individuals, entities or organizations suspected of engaging in terrorist or other criminal activities; and

(12) Individuals or entities involved in evaluating or investigating any matters in connection with individuals, entities or organizations suspected of engaging in terrorist or other criminal activity.

CATEGORIES OF RECORDS IN THE SYSTEM:

The SAR System contains information reported to FinCEN by a financial institution (including, but not limited to, a depository institution, a money services business, a broker-dealer in securities, an insurance company, and a casino) on a Suspicious Activity Report (SAR) that is filed voluntarily or as required by FinCEN, one or more of the Federal Supervisory Agencies, and/or any other authority. The SAR System also may contain information that may relate to terrorist or other criminal activity that is reported voluntarily to FinCEN by any individual or entity through any other means, including through FinCEN's Financial Institutions Hotline. The SAR System also may contain information relating to individuals, entities, or organizations that, based on credible evidence, are suspected of engaging in terrorist or other criminal activities, including information provided to FinCEN from financial institutions regarding such individuals, entities, or organizations. SARs contain information about the categories of persons or entities specified in "Categories of Individuals Covered by the System."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The SAR System is established and maintained in accordance with 31 U.S.C. 5318(g); 31 U.S.C. 321; and 31 U.S.C. 310; 31 CFR chapter X; Treasury Department Order 180–01 (September 26, 2002).

PURPOSE(S):

The SAR requirements of FinCEN and the Federal Supervisory Agencies create an integrated process for reporting suspicious activity and known or suspected crimes by, at, or through

depository institutions, certain of their affiliates, and certain other financial institutions. The process is based on a single, uniform SAR filed with FinCEN. The SAR System has been created, as a key part of this integrated reporting process, to permit coordinated and enhanced analysis and tracking of such information, and rapid dissemination of SAR information. 31 U.S.C. 5318(g)(4)(B), which specifically requires that the agency designated as the repository for SARs refer those reports to appropriate law enforcement, supervisory and intelligence agencies, and 31 U.S.C. 5319 and 31 U.S.C. 310, which require or permit the distribution of reports filed under the Bank Secrecy Act to federal, state and local agencies that engage in criminal, regulatory and tax investigations and proceedings, agencies that engage in intelligence and counterintelligence activities, including analysis, to protect against international terrorism, certain self-regulatory organizations, appropriate foreign agencies, and foreign financial intelligence units. A SAR System User is an agency or organization that has been granted access to the information in this system. SAR System Users include the Federal Supervisory Agencies, Federal law enforcement agencies (including the Federal Bureau of Investigation, the Internal Revenue Service, the United States Secret Service, United States Customs and Border Protection, United States Immigration and Customs Enforcement, the Drug Enforcement Administration, and the Bureau of Alcohol, Tobacco, Firearms and Explosives), appropriate federal agency Inspector General Offices having criminal law enforcement powers under the Inspector General Act of 1978 or comparable authority, the Executive Office of the United States Attorneys and the Offices of the 93 United States Attorneys, the Securities and Exchange Commission (SEC), the Commodity Futures Trading Commission (CFTC), the Federal Trade Commission, the Intelligence Community, federal agencies conducting or supporting national security background investigations under Executive Order 12968 as amended, the Government Accountability Office, State financial institution supervisory and regulatory agencies, State tax agencies, State and local law enforcement agencies, and self-regulatory organizations authorized by the SEC and CFTC.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be used to:

- (1) Provide information or records, electronically or manually, to a SAR System User relevant to the enforcement, regulatory, and supervisory programs and operations of that User;
- (2) Provide a SAR System User, and if applicable the unit within an Executive Department to which the SAR System User reports, with reports that indicate the number, amount, individual identity, and other details concerning potential violations of law that have been the subject of SARs;
- (3) Provide information or records to any appropriately authorized domestic governmental agency or self-regulatory organization charged with the responsibility of administering law, investigating or prosecuting violations of law, enforcing or implementing a statute, rule, regulation, order, or policy, or issuing a license, security clearance, contract, grant, or benefit, when relevant to the responsibilities of that agency or organization;
- (4) Provide information or records to any appropriately authorized non-United States governmental agency charged with the responsibility of administering law, investigating or prosecuting violations of law, enforcing or implementing a statute, rule, regulation, order, or policy, when relevant to the responsibilities of that agency;
- (5) Provide information or records, when appropriate, to an international authority or foreign government in accordance with law and bilateral or multilateral international agreements;

- (6) Disclose the existence, but not necessarily the content, of information or records pertaining to an investigation by a SAR System User, on behalf of and with the approval of that SAR System User, to another SAR System User, when FinCEN determines that such disclosure furthers the coordinated analysis and tracking of information among SAR System Users;
- (7) Provide information or records to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which a SAR System User is authorized to appear, when: (a) any of the following is a party to litigation or has an interest in litigation: (i) the SAR System User or any component thereof, or (ii) any employee of the SAR System User in his or her official capacity, or (iii) any employee of the SAR System User where the Department of Justice or the SAR System User has agreed to represent the employee, or (iv) the United States; and (b) the SAR System User determines that litigation is likely to affect the SAR System User or any of its components; (c) the SAR System User deems the use of such records by the Department of Justice or the SAR System User to be relevant and necessary to the litigation; provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected;
- (8) Disclose information or records to individuals or entities to the extent necessary to elicit information pertinent to the investigation, prosecution, or enforcement of civil or criminal statutes, rules, regulations, or orders;
- (9) In accordance with Executive Order 12968 (August 2, 1995) as amended, provide information or records to any appropriate government authority to determine eligibility for access to classified information to the extent relevant for matters that are by statute permissible subjects of inquiry;
- (10) Provide information or records to the United States Intelligence Community, within the meaning of Executive Order 12333 (December 4, 1981) as amended, to further those agencies' efforts with respect to national security in a manner consistent with applicable law and in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism;
- (11) Furnish analytic and statistical reports to government agencies and the public providing information derived from SARs in a form in which individual identities are not revealed;
- (12) Disclose information or records to any person with whom FinCEN, ECCD, ECCM, or a SAR System User contracts to provide consulting, data processing, clerical, secretarial, or other services relating to the official programs and operations of FinCEN, ECCD, ECCM, or the SAR System User; and
- (13) Disclose information to appropriate agencies, entities, and persons when (a) FinCEN suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) FinCEN has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by FinCEN or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with FinCEN's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in magnetic media and other electronic format and on hard paper copy.

RETRIEVABILITY:

Data in the SAR System may be retrieved by particular data fields (e.g. , name of financial institution or holding company, type of suspected violation, individual suspect name, witness name, and name of individual authorized to discuss the referral with government officials) or by the use of search and selection criteria.

SAFEGUARDS:

Electronic records are password protected. Records are maintained in buildings subject to 24-hour security. Access controls will not be less than those provided by Treasury security requirements. Access to individuals is granted based on roles and responsibilities.

RETENTION AND DISPOSAL:

Records in this system will be updated periodically to reflect new filings, amendments to existing filings, and disposition of records in accordance with applicable law and record retention schedules.

SYSTEM MANAGER AND ADDRESS:

General Policy: Deputy Director, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, Virginia 22183–0039. Computer Systems Maintenance and Administration: Director, IRS Enterprise Computing Center Detroit, 985 Michigan Avenue, Detroit, Michigan 48226–1129 and Director, IRS Enterprise Computing Center Martinsburg, 295 Murall Drive, Kearneysville, West Virginia, 25436.

NOTIFICATION PROCEDURE:

This system is exempt from notification requirements, record access requirements, and requirements that an individual be permitted to contest its contents, pursuant to the provisions of 5 U.S.C. 552a(j)(2) and (k)(2).

RECORD ACCESS PROCEDURES:

See “Notification procedure” above.

CONTESTING RECORD PROCEDURES:

See “Notification procedure” above.

RECORD SOURCE CATEGORIES:

Records in this system may be provided by or obtained from: individuals; financial institutions and certain of their affiliates; Federal Supervisory Agencies; State financial institution supervisory agencies; domestic or foreign government agencies; foreign or international organizations; and commercial sources. Pursuant to the provisions of 5 U.S.C. 552a(j)(2) and (k)(2), this system is exempt from the requirement that the record source categories be disclosed.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2). See 31 CFR 1.36.

Treasury/FinCEN.003

SYSTEM NAME:

Bank Secrecy Act Reports System (the “BSA System”)—Treasury/FinCEN.

SYSTEM LOCATION:

Currency and Banking Retrieval System, Internal Revenue Service Enterprise Computing Center Detroit (ECCD), 985 Michigan Avenue, Detroit, Michigan 48226–1129; Internal Revenue Service Enterprise Computing Center Martinsburg (ECCM), 295 Murall Drive, Kearneysville, West Virginia, 25436; Bureau of the Public Debt, P.O. Box 7015, Parkersburg, West Virginia, 26106–7015; Treasury Enforcement Communications System, United States Customs and

Border Protection, Newington, 7681 Boston Boulevard, Springfield, Virginia 22153–3140; and Financial Crimes Enforcement Network (FinCEN), P.O. Box 39, Vienna, Virginia 22183–0039. CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

See persons identified in the reports specified below under “Categories of Records in the System.” Specifically, the BSA System contains information from forms including, but not limited to: FinCEN Form 104 (Currency Transaction Report)—formerly IRS Form 4789; FinCEN Form 103 (Currency Transaction Report by Casinos)—formerly IRS Form 8362; FinCEN Form 103N-rescinded 1/7/07 (Currency Transaction Report by Casinos-Nevada)—formerly IRS Form 8852; FinCEN Form 8300 (Report of Cash Payments Over \$10,000 Received in a Trade or Business)—formerly IRS Form 8300; FinCEN Form 105 (Report of International Transportation of Currency or Monetary Instruments)—formerly Customs Form 4790; Treasury Form TDF 90–22.1 (Report of Foreign Bank and Financial Accounts); FinCEN Form 110 (Designation of Exempt Person)—formerly Treasury Form TDF 90–22.53; and FinCEN Form 107 (Registration of Money Services Businesses)—formerly Treasury Form TDF 90–22.55 (collectively BSA Reports); and Form 112 (Bank Secrecy Act Currency Transaction Report), after that unified form reporting transactions in currency is made effective.

Information on these forms concerns: (1) individuals or entities filing the reports; (2) individuals or entities that are the subjects of these reports; (3) individuals or entities that are participants in reportable transactions; (4) individuals who are directors, officers, employees, agents, or otherwise affiliated with a financial institution; (5) individuals or entities named as preparers of any such report; (6) individuals named as the owners of monetary instruments; and (7) individuals named as owners of financial accounts.

CATEGORIES OF RECORDS IN THE SYSTEM:

The BSA System contains information or reports filed under the Bank Secrecy Act and its implementing regulations (31 CFR chapter X) including, but not limited to, reports made on FinCEN Form 104 (Currency Transaction Report); FinCEN Form 103 (Currency Transaction Report by Casinos); FinCEN Form 103N (Currency Transaction Report by Casinos-Nevada); FinCEN Form 8300 (Report of Cash Payments Over \$10,000 Received in a Trade or Business); FinCEN Form 105 (Report of International Transportation of Currency or Monetary Instruments); Treasury Form TDF 90–22.1 (Report of Foreign Bank and Financial Accounts); FinCEN Form 110 (Designation of Exempt Person); and FinCEN Form 107 (Registration of Money Services Businesses) (collectively BSA Reports). The BSA System also will contain information from Form 112 (Bank Secrecy Act Currency Transaction Report), after that unified form reporting transactions in currency is made effective. These reports include names of financial institutions (including, but not limited to, depository institutions, money services businesses, broker-dealers in securities, insurance companies, and casinos), individuals and other entities filing the reports, names of financial institutions, individuals and entities that are the subjects of the reports, names of the owners of monetary instruments, account numbers, addresses, dates of birth and other personal identifiers, and the amounts of funds, currency or other monetary instruments that are associated with transactions, events, circumstances or decisions that trigger reporting requirements. (This system does not include Suspicious Activity Reports. Those reports are included in another system of records, “Suspicious Activity Reporting System—Treasury/FinCEN.002”).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The BSA Report System is established and maintained in accordance with 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314, 5316–5332; 5 U.S.C. 301; 31 U.S.C. 310; 31 CFR chapter X; Treasury Department Order 180–01 (September 26, 2002).

PURPOSE(S):

The Bank Secrecy Act, codified at 12 U.S.C. 1829b and 1951–1959 and 31 U.S.C. 5311–5314, 5316–5332 authorizes the Secretary of the Treasury to issue regulations requiring records and reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory investigations and examinations, or in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism. The Secretary's authority has been implemented through regulations promulgated at 31 CFR chapter X. The purpose of this system of records is to maintain the information contained in the reports required under these regulations. This information is distributed to federal, state and local agencies that engage in criminal, regulatory and tax investigations and proceedings, agencies that engage in intelligence and counterintelligence activities, certain self-regulatory organizations, appropriate foreign agencies, and foreign financial intelligence units. A BSA Report Systems User is an agency or organization that has been granted access to the information in this system. BSA Report System Users include the Federal Supervisory Agencies, Federal law enforcement agencies (including the Federal Bureau of Investigation, the Internal Revenue Service, the United States Secret Service, United States Customs and Border Protection, United States Immigration and Customs Enforcement, the Drug Enforcement Administration, and the Bureau of Alcohol, Tobacco, Firearms and Explosives), appropriate federal agency Inspector General Offices having criminal law enforcement powers under the Inspector General Act of 1978 or comparable authority, the Executive Office of the United States Attorneys and the Offices of the 93 United States Attorneys, the Securities and Exchange Commission (SEC), the Commodity Futures Trading Commission (CFTC), the Federal Trade Commission, the Intelligence Community, federal agencies conducting or supporting national security background investigations under Executive Order 12968 as amended, the Government Accountability Office, State financial institution supervisory and regulatory agencies, State tax agencies, State and local law enforcement agencies, and self-regulatory organizations authorized by the SEC and CFTC.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

These records may be used to:

- (1) Provide information or records, electronically or manually, to a BSA Report System User relevant to the enforcement, regulatory, and supervisory programs and operations of that User;
- (2) Provide a BSA Report System User, and if applicable the unit within an Executive Department to which the BSA Report System User reports, with reports that indicate the number, amount, individual identity of participants, and other details concerning events or activities that have been the subject of a BSA Report;
- (3) Provide information or records to any appropriately authorized domestic governmental agency or self-regulatory organization charged with the responsibility of administering law, investigating or prosecuting violations of law, enforcing or implementing a statute, rule, regulation, order, or policy, or issuing a license, contract, grant, or other benefit when relevant to the responsibilities of that agency or organization;
- (4) Provide information or records to any appropriately authorized non-United States governmental agency charged with the responsibility of administering law, investigating or

prosecuting violations of law, enforcing or implementing a statute, rule, regulation, order, or policy, when relevant to the responsibilities of that agency;

(5) Provide information or records, when appropriate, to an international authority or foreign government in accordance with law and bilateral or multilateral international agreements;

(6) Disclose relevant information on individuals to authorized Federal and State agencies through computer matching in order to help eliminate waste, fraud, and abuse in Government programs and identify individuals who are potentially in violation of civil law, criminal law, or regulation;

(7) Disclose the existence, but not necessarily the content, of information or records pertaining to an investigation by a BSA Report System User, on behalf of and with the approval of that BSA Report System User, to another BSA Report System User, when FinCEN determines that such disclosure furthers the coordinated analysis and tracking of information among BSA Report System Users;

(8) Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings;

(9) Provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation;

(10) In accordance with Executive Order 12968 (August 2, 1995) as amended, provide information or records to any appropriate government authority to determine eligibility for access to classified information to the extent relevant for matters that are by statute permissible subjects of inquiry;

(11) Provide information or records to the United States Intelligence Community, within the meaning of Executive Order 12333 (December 4, 1981) as amended, to further those agencies' efforts with respect to national security in a manner consistent with applicable law, and in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism;

(12) Provide information to the news media, in accordance with guidelines contained in 28 CFR 50.2, that relates to an agency's functions relating to civil and criminal proceedings;

(13) Disclose information or records to any person with whom FinCEN, ECCD, ECCM, or a BSA Report System User contracts to provide consulting, data processing, clerical, secretarial, or other services relating to the official programs and operations of FinCEN, ECCD, ECCM, or the BSA Report System User;

(14) Disclose to the public information about Money Services Businesses that have registered with FinCEN pursuant to 31 CFR 1022.380, other than information that consists of trade secrets, or that is privileged and confidential commercial or financial information; and

(15) Disclose information to appropriate agencies, entities, and persons when (a) FinCEN suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) FinCEN has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by FinCEN or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with FinCEN's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in magnetic media and other electronic format and on hard paper copy.

RETRIEVABILITY:

By name and other unique identifier.

SAFEGUARDS:

Electronic records are password protected. Records are maintained in buildings subject to 24-hour security. Access controls will not be less than those provided by Treasury security requirements. Access to individuals is granted based on roles and responsibilities.

RETENTION AND DISPOSAL:

Records in this system will be updated periodically to reflect new filings, amendments to existing filings, and disposition of records in accordance with applicable law and record retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

General Policy: Deputy Director, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, Virginia 22183– 0039. Computer Systems Maintenance and Administration: Director, IRS Enterprise Computing Center Detroit, 985 Michigan Avenue, Detroit, Michigan 48226–1129, Director, IRS Enterprise Computing Center Martinsburg, 295 Murall Drive, Kearneysville, West Virginia, 25436. and Director, Office of Information Technology, U.S. Customs and Border Protection, Newington, 7681 Boston Boulevard, Springfield, Virginia 22153–3140.

NOTIFICATION PROCEDURE:

This system is exempt from notification requirements, record access requirements, and requirements that an individual be permitted to contest its contents, pursuant to the provisions of 5 U.S.C. 552a(j)(2) and (k)(2).

RECORD ACCESS PROCEDURES:

See “Notification procedure” above.

CONTESTING RECORD PROCEDURES:

See “Notification procedure” above.

RECORD SOURCE CATEGORIES:

Records in this system may be provided by or obtained from: individuals; financial institutions and certain of their affiliates; Federal Supervisory Agencies; State financial institution supervisory agencies; domestic or foreign government agencies; foreign or international organizations; and commercial sources. Pursuant to the provisions of 5 U.S.C. 552a(j)(2) and (k)(2), this system is exempt from the requirement that the Record source categories be disclosed.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2). See 31 CFR 1.36.

Dated: September 10, 2012

Melissa Hartman

Deputy Assistant Secretary for Privacy, Transparency, and Records

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